IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

CRP.No. 703 of 2005

AGAINST THE ORDER IN EP 10/04 IN LAR.55/1985 of SUB COURT,KOTTARAKKARA

REVN. PETITIONERS: DECREE HOLDERS: CLAIMANTS:
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1. A. YOHANNAN, PADINJARE VILA VADAKKATHIL VEEDU.
   THRIPPILAZHIKOM MURI, EZHUKONE VILLAGE.

2. A.MOLIKUTTY, DO. DO.

3. A.OOMMACHAN, DO. DO.

4. A.SALIKUTTY, DO. DO.

5. A.LIZYKUTTY, DO. DO.

6. A.ROSSAMMA, DO. DO.

7. A.LIJI ALIAS A. LILLY, DO. DO.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

RESPONDENT: JUDGMENT DEBTOR: RESPONDENT:

STATE OF KERALA, REPRESENTED BY
THE ADDL. GOVT. PLEADER, KOTTARAKARA.

BY GOVERNMENT PLEADER SRI. BASANT BALAJI

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 24/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

C.R.P.No. 703 of 2005 A

Dated this the 24th day of August, 2007

O R D E R

The decree holders in E.P.No.10 of 2004 in L.A.R.No.55 of 1985, on the file of the court of the Subordinate Judge of Kottarakkara, challenge the order dated 8th April, 2005 passed by the court below. By the impugned order, the court below accepted the statement filed by the judgment debtor. The case of the petitioners is that the contentions put forward by the decree holders were not considered by the court below. It is submitted that both sides had filed claim statements. The order impugned does not clearly indicate the reason for rejection of the claim made by the petitioners except stating that the petitioners are not entitled to interest on solatium. The learned counsel for the petitioners submitted that there is no claim for interest on solatium since claim for interest on solatium was specifically rejected by the judgment of the reference court.

2. When both parties filed statement and there is dispute as to the amount recoverable, executing court should consider the rival contentions and pass an order as to the amount due to the decree holders. Reasons also should be stated as to why a particular claim is accepted or rejected. Since it is not clear from the order impugned as to how the court below

arrived at the figure of Rs.1,143/- as payable to the decree holders, the order passed by the court below is set aside. The court below shall consider the matter afresh and pass a considered order on the merits after affording an opportunity of being heard to both parties.

The Civil Revision Petition is allowed as indicated above.

(K.T.SANKARAN)
Judge

ahz/